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SUBJECT: WAFIDAIN ARABS TO BE BLOCKED FROM VOTING IN
ARTICLE 140 REFERENDUM?

REF: BAGHDAD 431

Classified By: Deputy Political Counselor Bob Gilchrist for Reasons 1.4
(b) and (d)

¶1. SUMMARY (C) Concern that the Article 140 Commission's Wafidain relocation program would be involuntary has lessened, but there are new concerns that Wafidain Arabs in Kirkuk may be blocked from voting in the Article 140 referendum. Although proponents of such a plan interpret Article 140 and TAL 58 as supportive of this concept, there does not appear to be any clear legal basis for such action.
END SUMMARY.

¶2. (SBU) The controversy in Kirkuk over the Article 140 Commission's proposed relocation plan for Wafidain Arabs (i.e. the beneficiaries of Saddam's "Arabization" program which brought Arabs to Kirkuk and surrounding areas-- See REFTEL) has eased somewhat as various public figures have issued statements that the relocation program will be voluntary. Arab opponents of the Article 140 process continue to insist that specific wording be added to any relocation program specifying that it is voluntary. Although at least one Article 140 member has claimed that these resolutions have been approved by the Prime Minister, an advisor to the PM told Emboff that the resolutions remain unsigned.

¶3. (C) While Kurdish Article 140 supporters are now indicating that while they are willing to accept that the relocation program will be voluntary, there are indications that those Wafidain Arabs who remain in Kirkuk and refuse to relocate will be denied the right to vote in the Article 140 referendum. In a recent meeting with the British Consul-General in Irbil Kirkuk Provincial Council Chairman Rizgar Ali (Kurd-PUK) stated that the problem was a contradiction between the text of the Constitution, which says Iraqis can live wherever they want in Iraq, and TAL Article 58, which states that "Wafidain must go back" while displaced persons return. Rizgar continued, stating that the "Wafidain could stay, but they could not vote in the Referendum." KRG Minister for External Affairs Mohammed Ihsan, a GOI Article 140 Commission member, has made similar statements.

¶4. (C) In an meeting with IPAO on March 6 Mr. Farhad Talabani, the head of the Kirkuk office of the Independent Electoral Commission in Iraq (IECI), was asked if there was any legal way in which Wafidain residents of Kirkuk could be blocked from voting. Talabani responded that it was legally impossible to deprive them of the right to vote if they are residents of Kirkuk. Talabani said that the key factor in establishing Kirkuk residency was to have a food ration card registered in Kirkuk. He noted, however, that his commission had met with "Kurdish Representatives" to discuss voting and Wafidain. He said that the Kurds plan to make a "political agreement" that will block the Wafidain from voting, although he claimed that he did not know the details of the agreement.

¶15. (C) Most Kurdish leaders believe that the Referendum will not held until after border changes are made to bring back districts detached during the previous regime's Arabization programs. Rizgar Ali has indicated that the return of these districts (e.g., Kifri, Tuz and Chamchamal) could bring as many as 300,000 new Kurdish voters into the Province. Although Wafidain numbers are uncertain, it seems likely that the additional new Kurdish voters added through the boundary changes would more than offset Wafidain voters.

¶16. (C) EMBASSY COMMENT. Efforts to block those Wafidain Arabs from voting has been a statement made repeatedly by certain members of the Article 140 commission, although it is likely that to try and implement such a policy would call into question both the legitimacy and the constitutionality of the entire process. In an effort to prevent additional scrutiny, it is likely that Kurdish leaders will retreat) and issue orders to their subordinates that they retreat) from such a hard-line position. The most likely scenarios are that the Wafidain will boycott the entire referendum in protest of the process or they will represent the minority opinion in the final vote. End Comment
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